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July 29, 1997

EX PARTE OR LATE FILED

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

RE: Competitive Service Safeguards For Local Exchange Carrier Provision of
Commercial Mobile Radio Services, WT Docket 96-162 **Ex Parte**

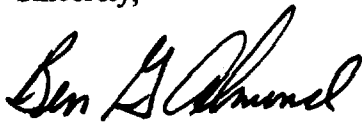
Dear Mr. Caton:

On July 28, 1997, Charles P. Featherstun, David Frolio and Ben Almond, all of BellSouth Corporation met with Suzanne Toller of Commissioner Chong's office on issues associated with the above referenced proceeding. The attached document was used for discussion purposes.

Please associate this notification and the accompanying material with the docket proceeding. Because the meeting ended late in the day, this notification is being filed on the day after the meeting.

Questions concerning this matter should be directed to the undersigned.

Sincerely,



Ben G. Almond
Executive Director-Federal Regulatory

Attachments

cc: Suzanne Toller

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July 28, 1997

BellSouth Corporation
CMRS Safeguards
Docket 96-162

■ The record supports total elimination of Section 22.903, immediately.

▢ Opposition cites usual suppositions about BOCs with little or no evidence of interconnection/cross subsidization abuses.

▢ Market share test for full deregulation is unfounded and not in the public interest. This would handicap the BOCs in achieving efficient utilization of capital investments and human resources. The BOCs are penalized from providing better communications services and products to the public at competitive prices.

■ The Commission should follow through on the objectives cited in the NPRM which recognize the November, 1995 decision by the Sixth Circuit Court:

▢ Principally, regulatory parity requires the Commission to treat Cellular and PCS operations similarly. The LECs must also be treated similarly -- BOCs and Independents alike.

▢ The Commission should not impose new regulatory burdens on previously unregulated services without a compelling justification.

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The final decision should provide the following:

1. Sunset Provisions -- It should include date certain sunset.

- ☐ Deadline will avoid regulatory inertia.
- ☐ Waiver process for relief is inefficient, highly regulatory process.

2. The Commission should not impose unnecessary regulatory burdens.

- ☐ Unrestricted sharing of people and facilities is essential.
- ☐ "Operate Independently" and nondiscrimination requirements means de facto that Section 22.903 remains in effect.
- ☐ Section 272 affiliate restrictions should only apply to long distance services and not CMRS.
- ☐ The Commission has previously rejected the application of Section 272 safeguards to interLATA CMRS operations (CC Docket 96-149, Para. 96-98)

3. In the Telecom Act of 1996, Congress granted BOCs far greater flexibility in the provision of CMRS.

- ☐ It did not impose an "operate independently" requirement on CMRS.
- ☐ Authorized BOCs to provide interLATA CMRS.
- ☐ Authorized BOCs to jointly market and sell CMRS in conjunction with local exchange services.
- ☐ Eliminated separate subsidiary requirements for McCaw Cellular under McCaw consent decree.

4. Commission should release decision by August 8, 1997.

- ☐ The Sixth Circuit Court said "time is of the essence" for the Commission to review this issue.
- ☐ BellSouth purchased 10 MHz PCS licenses. Relief is needed now to integrate the 10 MHz PCS operations with the Cellular and LEC operations for efficiencies.

Excerpts From First Report and Order in CC Docket No. 96-149
(Non-Accounting Safeguards)

“We decline to impose the section 272 separate affiliate requirements on incidental interLATA services that , as discussed above, are exempt from those requirements under section 272(a)(2)(B)(i). Section 272 itself does not require the BOCs to provide these services through a separate affiliate. Further, we conclude as a legal matter that neither section 271(h) nor section 254(k) requires us to impose the section 272 separate affiliate requirements on exempt incidental interLATA services in order to protect telephone exchange ratepayers or competition in the telecommunications market. **Moreover, we decline to do so as a matter of policy, because we see no present need to impose structural separation requirements on BOC provision of these services, as suggested by certain commenters. This decision comports with the Commission’s prior determinations not to impose structural separation requirements in contexts in which it found that nonstructural safeguards provide sufficient protection against improper cost allocation and access discrimination (e.g., BOC provision of enhanced services).**” Par. 96 (emphasis added, footnotes omitted).

“Under our rules, the BOCs are subject to existing nonstructural safeguards in their provision of incidental interLATA services, and **we conclude that these safeguards are sufficient to protect telephone exchange ratepayers and competition in telecommunications markets, in accordance with section 271(h).**” Par. 97 (emphasis added).

“Given the complement of nonstructural safeguards to which the BOCs are subject in their provision of incidental interLATA services, **we find that the record in this proceeding does not justify the imposition of additional nonstructural safeguards on these issues.**” Par. 98 (emphasis added).

“For the foregoing reasons, we decline to adopt any additional structural or nonstructural safeguards applicable specifically to BOC provision of incidental interLATA services.” Par. 98.